

REMARKS

Claims 1, 13, 14, 21, 26, 27, 29, 35, 36, 38, 41, 42, 45, 47, and 49 have been amended and claims 6-8, 16, 19, 20, 39, 46, and 48 have been cancelled. Accordingly, claims 1, 3-5, 9-15, 18, 21-31, 33-36, 38, 40-43, 45, 47, and 49 are pending in the present application. The claim amendments are supported by the specification and claims as originally filed, with no new matter being added. Accordingly, favorable reconsideration of the pending claims is respectfully requested.

Applicants respectfully thank the Examiner for the indication that claims 14, 15, 18, 21-31, 33, 34, 36, 38, 40-43, 45, 47, and 49 are allowed.

1. Rejections Under 35 U.S.C. § 112

Claims 6, 16, 19, 35, 39, and 46 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In particular, the Examiner has indicated that the claims 6, 19, 35, 39, and 46 conflict with the claims upon which they depend and claim 16 unfairly broadens the scope of the claim upon which it depends.

In response, claims 6, 16, 19, 39, and 46 have been cancelled and claim 35 has been amended to delete the recitation that “the underlying layer is composed of silicon nitride.” Applicants therefore respectfully request that the rejection of claims 6, 16, 19, 35, 39, and 46 under 35 U.S.C. § 112 be withdrawn.

2. Rejections Under 35 U.S.C. § 103

Claims 1, 3-6, and 9-13 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,403,488 to *Yang* et al. (hereafter “*Yang*”). Applicants respectfully traverse.

Applicants note that claim 8, which depends from claim 1, has been objected to as being dependent upon a rejected base claim but having allowable subject matter if rewritten in independent form. Accordingly, claim 1 has been amended to include the limitations of claim 8. In addition, claim 13 has also been amended to add the allowable subject matter from claim 8.

Accordingly, claims 1 and 13 each now contain subject matter that renders the claims patentable over *Yang*. In addition, claims 3-5 and 9-12 depend from claim 1, include the limitations therein, and are therefore patentable over *Yang* for at least the reasons presented hereinabove with respect to claim 1.

Claim 13 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,399,511 to *Tang* et al. (hereafter “*Tang*”). More particularly, the Office Action states, “Claim 13 recites that the etch stop layer is comprised of Si<sub>3</sub>N<sub>4</sub>, and not a refractory metal nitride layer as is purported by the applicant. The previous rejection of claim 13 over the *Tang* et. al. is therefore still valid.” Applicants respectfully traverse.

In contrast to the foregoing statement, a review of the previously filed Amendment and Response reveals that claim 13 was in fact amended to recite “providing a refractory metal nitride etch stop layer.” *See* Amendment and Response filed June 13<sup>th</sup>, 2003, page 5. Therefore, for the same reasons discussed in the previous papers, claim 13 is patentable over *Tang*.

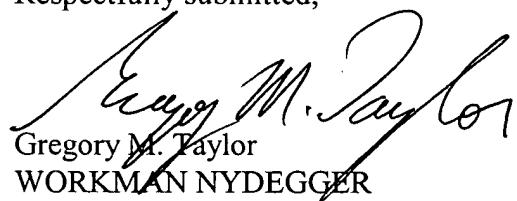
Accordingly, for the foregoing reasons, each of the above rejected claims are patentable over *Yang* and *Tang*. Applicants therefore respectfully request that the rejection of the claims under 35 U.S.C. § 103 be withdrawn.

CONCLUSION

In view of the foregoing, Applicants respectfully request favorable reconsideration and allowance of the present claims. In the event the Examiner finds any remaining impediment to the prompt allowance of this application which could be clarified by a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney.

Dated this 6<sup>th</sup> day of February 2004.

Respectfully submitted,

  
Gregory M. Taylor  
WORKMAN NYDEGGER  
Attorney for Applicants  
Registration No. 34,263  
Customer No. 022901